

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:18-cv-04559-GBD-DCF

American Society for the Prevention of Cruelty to Animals v.
 The Animal and Plant Health Inspection Service et al
 Assigned to: Judge George B. Daniels
 Referred to: Magistrate Judge Debra C. Freeman
 Cause: 05:552 Freedom of Information Act

Date Filed: 05/23/2018
 Jury Demand: None
 Nature of Suit: 895 Freedom of
 Information Act
 Jurisdiction: U.S. Government Defendant

Plaintiff

**American Society for the Prevention of
 Cruelty to Animals**

represented by **Bonnie Weiss McLeod**
 Cooley LLP (DC)
 1299 Pennsylvania Ave., Nw, Suite 700
 Washington, DC 20004
 (202) 842-7800
 Fax: (202) 842-7899
 Email: bweissmcleod@cooley.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Erin Murray Estevez
 Cooley LLP (DC)
 1299 Pennsylvania Ave., Nw, Suite 700
 Washington, DC 20004
 (202)-728-7065
 Fax: (202)-842-7899
 Email: eestavez@cooley.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jennifer Helen Chin
 Simpson Thacher & Bartlett LLP (NY)
 425 Lexington Avenue
 New York, NY 10017
 (212) 455-2265
 Fax: (212) 455-2502
 Email: jchin@stblaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Robert G. Hensley , Jr.
 American Society For The Prevention of
 Cruelty To Animals NY
 (Aspca)
 520 Eighth Avenue
 New York, NY 10018
 (917)-716-5105
 Email: robert.hensley@aspca.org
ATTORNEY TO BE NOTICED

Tamara Feliciano
 American Society For The Prevention of
 Cruelty To Animals GA
 (Aspca)
 1720 Flat Shoals Rd SE
 Atlanta, GA 30316
 (770)-359-8275
 Email: tamara.feliciano@aspca.org
ATTORNEY TO BE NOTICED

Kaitland Mccann Kennelly

Cooley LLP (NY)
1114 Avenue of the Americas
New York, NY 10036
(212)–479–6643
Email: kkennelly@cooley.com
ATTORNEY TO BE NOTICED

V.

Defendant

**The Animal and Plant Health
Inspection Service**

represented by **Samuel Hilliard Dolinger**
U.S. Attorney's Office, SDNY
86 Chambers Street, 3rd Floor
New York, NY 10007
(212) 637–2677
Email: samuel.dolinger@usdoj.gov
ATTORNEY TO BE NOTICED

Defendant

**The United States Department of
Agriculture**

represented by **Samuel Hilliard Dolinger**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/23/2018	<u>1</u>	COMPLAINT against The Animal and Plant Health Inspection Service, The United States Department of Agriculture. (Filing Fee \$ 400.00, Receipt Number 0208–15105439) Document filed by American Society for the Prevention of Cruelty to Animals.(Kennelly, Kaitland) (Entered: 05/23/2018)
05/23/2018	<u>2</u>	CIVIL COVER SHEET filed. (Kennelly, Kaitland) (Entered: 05/23/2018)
05/23/2018	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to The Animal and Plant Health Inspection Service, re: <u>1</u> Complaint,. Document filed by American Society for the Prevention of Cruelty to Animals. (Kennelly, Kaitland) (Entered: 05/23/2018)
05/23/2018	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to The United States Department of Agriculture, re: <u>1</u> Complaint,. Document filed by American Society for the Prevention of Cruelty to Animals. (Kennelly, Kaitland) (Entered: 05/23/2018)
05/23/2018	<u>5</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by American Society for the Prevention of Cruelty to Animals.(Kennelly, Kaitland) (Entered: 05/23/2018)
05/24/2018		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge George B. Daniels. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pne) (Entered: 05/24/2018)
05/24/2018		Magistrate Judge Debra C. Freeman is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pne) (Entered: 05/24/2018)
05/24/2018		Case Designated ECF. (pne) (Entered: 05/24/2018)
05/24/2018	<u>6</u>	LETTER MOTION for Leave to File Correct Complaint by filing Omitted Exhibits addressed to Judge George B. Daniels from Kaitland M. Kennelly dated May 24, 2018. Document filed by American Society for the Prevention of Cruelty to Animals.(Kennelly, Kaitland) (Entered: 05/24/2018)

05/24/2018	<u>7</u>	ELECTRONIC SUMMONS ISSUED as to The Animal and Plant Health Inspection Service. (pne) (Entered: 05/24/2018)
05/24/2018	<u>8</u>	ELECTRONIC SUMMONS ISSUED as to The United States Department of Agriculture. (pne) (Entered: 05/24/2018)
05/25/2018		***DELETED DOCUMENT. Deleted document number 9 ORDER. The document was incorrectly filed in this case. (anc) (Entered: 05/30/2018)
05/29/2018	<u>10</u>	COMPLAINT against The Animal and Plant Health Inspection Service, The United States Department of Agriculture. Document filed by American Society for the Prevention of Cruelty to Animals. (Attachments: # <u>1</u> Exhibit (A) FOIA Request, # <u>2</u> Exhibit (B) FOIA Request, # <u>3</u> Exhibit (C) FOIA Request, # <u>4</u> Exhibit (D) FOIA Request, # <u>5</u> Exhibit (E) FOIA Request, # <u>6</u> Exhibit (F) Defendants' Final Response, # <u>7</u> Exhibit (G) Defendants' Final Response, # <u>8</u> Exhibit (H) Defendants' Final Response, # <u>9</u> Exhibit (I) Defendants' Final Response, # <u>10</u> Exhibit (J) Defendants' Final Response, # <u>11</u> Exhibit (K) ASPCA's Appeal, # <u>12</u> Exhibit (L) ASPCA's Appeal, # <u>13</u> Exhibit (M) ASPCA's Appeal, # <u>14</u> Exhibit (N) ASPCA's Appeal)(Kennelly, Kaitland) (Entered: 05/29/2018)
05/29/2018	<u>11</u>	INITIAL PRETRIAL CONFERENCE: Initial Conference set for 8/9/2018 at 09:30 AM in Courtroom 11A, 500 Pearl Street, New York, NY 10007 before Judge George B. Daniels. (Signed by Judge George B. Daniels on 5/25/2018) (ne) (Entered: 05/29/2018)
05/29/2018		***DELETED DOCUMENT. Deleted document number 12 MEMO ENDORSEMENT. The document was incorrectly filed in this case. (anc) (Entered: 05/30/2018)
05/29/2018	<u>12</u>	ORDER granting <u>6</u> Letter Motion for Leave to File Document. SO ORDERED. (Signed by Judge George B. Daniels on 5/29/2018) (anc) (Entered: 05/30/2018)
05/30/2018	<u>13</u>	NOTICE OF APPEARANCE by Kaitland Mccann Kennelly on behalf of American Society for the Prevention of Cruelty to Animals. (Kennelly, Kaitland) (Entered: 05/30/2018)
05/30/2018	<u>14</u>	NOTICE OF APPEARANCE by Jennifer Helen Chin on behalf of American Society for the Prevention of Cruelty to Animals. (Chin, Jennifer) (Entered: 05/30/2018)
06/01/2018	<u>15</u>	MOTION for Bonnie Weiss McLeod to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-15145647. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Society for the Prevention of Cruelty to Animals. (Attachments: # <u>1</u> Affidavit Declaration of Bonnie Weiss McLeod, # <u>2</u> Exhibit Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Weiss McLeod, Bonnie) (Entered: 06/01/2018)
06/01/2018	<u>16</u>	MOTION for Erin M. Estevez to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-15145800. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Society for the Prevention of Cruelty to Animals. (Attachments: # <u>1</u> Affidavit Declaration of Erin M. Estevez, # <u>2</u> Exhibit Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Estevez, Erin) (Entered: 06/01/2018)
06/01/2018		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>15</u> MOTION for Bonnie Weiss McLeod to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-15145647. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 06/01/2018)
06/01/2018		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>16</u> MOTION for Erin M. Estevez to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-15145800. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 06/01/2018)
06/04/2018	<u>17</u>	ORDER FOR ADMISSION PRO HAC VICE: granting <u>15</u> Motion for Bonnie Weiss McLeod to Appear Pro Hac Vice. (Signed by Judge George B. Daniels on 6/04/2018) (ama) (Entered: 06/04/2018)

06/04/2018	<u>18</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>16</u> Motion for Erin M. Estevez to Appear Pro Hac Vice. (Signed by Judge George B. Daniels on 6/4/2018) (jwh) (Entered: 06/04/2018)
06/08/2018	<u>19</u>	SUMMONS RETURNED EXECUTED (FOIA CASE). The Animal and Plant Health Inspection Service served on 5/31/2018, answer due 7/2/2018. Service was accepted by United States Attorney's Office. Document filed by American Society for the Prevention of Cruelty to Animals. (Kennelly, Kaitland) (Entered: 06/08/2018)
06/08/2018	<u>20</u>	SUMMONS RETURNED EXECUTED (FOIA CASE). The United States Department of Agriculture served on 5/31/2018, answer due 7/2/2018. Service was accepted by United States Attorney's Office. Document filed by American Society for the Prevention of Cruelty to Animals. (Kennelly, Kaitland) (Entered: 06/08/2018)
06/25/2018	<u>21</u>	MOTION for Tamara Y. Feliciano to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-15243400. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Society for the Prevention of Cruelty to Animals. (Attachments: # <u>1</u> Declaration of Tamara Y. Feliciano, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Feliciano, Tamara) (Entered: 06/25/2018)
06/25/2018		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>21</u> MOTION for Tamara Y. Feliciano to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-15243400. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 06/25/2018)
06/25/2018	<u>22</u>	MOTION for Robert G. Hensley to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-15243501. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Society for the Prevention of Cruelty to Animals. (Attachments: # <u>1</u> Declaration of Robert G. Hensley, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Hensley, Robert) (Entered: 06/25/2018)
06/25/2018		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>22</u> MOTION for Robert G. Hensley to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-15243501. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 06/25/2018)
06/26/2018	<u>23</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>22</u> Motion for Robert G. Hensley to Appear Pro Hac Vice. (Signed by Judge George B. Daniels on 6/26/2018) (mro) (Entered: 06/26/2018)
06/26/2018	<u>24</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>21</u> Motion for Tamara Y. Feliciano to Appear Pro Hac Vice. (Signed by Judge George B. Daniels on 6/26/2018) (mro) (Entered: 06/26/2018)
07/02/2018	<u>25</u>	NOTICE OF APPEARANCE by Samuel Hilliard Dolinger on behalf of The Animal and Plant Health Inspection Service, The United States Department of Agriculture. (Dolinger, Samuel) (Entered: 07/02/2018)
07/02/2018	<u>26</u>	ANSWER to <u>10</u> Complaint,,, Document filed by The Animal and Plant Health Inspection Service, The United States Department of Agriculture.(Dolinger, Samuel) (Entered: 07/02/2018)
08/02/2018	<u>27</u>	LETTER addressed to Judge George B. Daniels from Samuel Dolinger dated 8/2/2018 re: the Government's letter in advance of initial pre-trial conference on 8/9/2018. Document filed by The Animal and Plant Health Inspection Service, The United States Department of Agriculture.(Dolinger, Samuel) (Entered: 08/02/2018)
08/02/2018	<u>28</u>	LETTER MOTION for Discovery – <i>In Advance of August 9, 2018 Initial Pre-Trial Conference Seeking Discovery</i> addressed to Judge George B. Daniels from Erin M. Estevez dated August 2, 2018. Document filed by American Society for the Prevention of Cruelty to Animals.(Estevez, Erin) (Entered: 08/02/2018)
08/02/2018	<u>29</u>	AFFIRMATION of Robert G. Hensley in Support re: <u>28</u> LETTER MOTION for Discovery – <i>In Advance of August 9, 2018 Initial Pre-Trial Conference Seeking Discovery</i> addressed to Judge George B. Daniels from Erin M. Estevez dated August

		2, 2018.. Document filed by American Society for the Prevention of Cruelty to Animals. (Attachments: # 1 Exhibit (1) Documents Produced, # 2 Exhibit (2) Document Obtained, # 3 Exhibit (3) Documents Produced, # 4 Exhibit (4) Document Obtained, # 5 Exhibit (5) Document Produced /Obtained)(Estevez, Erin) (Entered: 08/02/2018)
08/09/2018		Minute Entry for proceedings held before Judge George B. Daniels: Initial Pretrial Conference held on 8/9/2018. Plaintiff Counsel: Erin Murray Estevez, Robert G. Hensley, Jr.; Defense Counsel: Samuel Hilliard Dolinger and Court Reporter present. Th subsequent conference is scheduled for October 25, 2018 at 9:45 a.m. (Vega, Elizabeth) (Entered: 08/09/2018)
08/20/2018	30	ORDER denying as moot 28 Letter Motion for Discovery: The Clerk of Court is directed to close the motion at ECF No. 28 as moot in light of the discussions held on the record of the August 9, 2018 conference. (Signed by Judge George B. Daniels on 8/16/2018) (jwh) (Entered: 08/20/2018)
09/14/2018	31	TRANSCRIPT of Proceedings re: conference held on 8/9/2018 before Judge George B. Daniels. Court Reporter/Transcriber: Pamela Utter, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/5/2018. Redacted Transcript Deadline set for 10/15/2018. Release of Transcript Restriction set for 12/13/2018.(McGuirk, Kelly) (Entered: 09/14/2018)
09/14/2018	32	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a conference proceeding held on 8/9/18 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 09/14/2018)
10/18/2018	33	JOINT LETTER MOTION to Adjourn Conference <i>scheduled for October 25, 2018</i> addressed to Judge George B. Daniels from Samuel Dolinger dated 10/18/2018. Document filed by The Animal and Plant Health Inspection Service, The United States Department of Agriculture.(Dolinger, Samuel) (Entered: 10/18/2018)
10/19/2018	34	ORDER granting 33 Letter Motion to Adjourn Conference. The Subsequent Conference is scheduled for November 29, 2018 at 9:45 a.m. SO ORDERED. (Status Conference set for 11/29/2018 at 09:45 AM before Judge George B. Daniels.) (Signed by Judge George B. Daniels on 10/19/2018) (jca) (Entered: 10/19/2018)
11/27/2018	35	LETTER addressed to Judge George B. Daniels from Samuel Dolinger dated 11/27/2018 re: Government's request to set a summary judgment schedule. Document filed by The Animal and Plant Health Inspection Service, The United States Department of Agriculture. (Attachments: # 1 Exhibit A – Vaughn Index)(Dolinger, Samuel) (Entered: 11/27/2018)
11/27/2018	36	LETTER addressed to Judge George B. Daniels from Erin M. Estevez dated 11/27/18 re: Letter in Advance of November 29, 2018 Conference. Document filed by American Society for the Prevention of Cruelty to Animals.(Kennelly, Kaitland) (Entered: 11/27/2018)
11/29/2018	37	ORDER REFERRING CASE TO MAGISTRATE JUDGE: Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Settlement and General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement) Referred to Magistrate Judge Debra C. Freeman. SO ORDERED. (Signed by Judge George B. Daniels on 11/29/2018) (jca) (Entered: 11/29/2018)
11/29/2018		Minute Entry for proceedings held before Judge George B. Daniels: Interim Pretrial Conference held on 11/29/2018. Plaintiff Counsel: Erin Murray Estevez; Robert G. Hensley; Tamara Feliciano Defense Counsel: Samuel Hilliard Dolinger and Court Reporter present. The subsequent conference is scheduled for April 18, 2019 at 9:45 a.m. (Vega, Elizabeth) (Entered: 11/29/2018)

12/13/2018		Minute Entry for proceedings held before Magistrate Judge Debra C. Freeman: Case Management Conference held via telephone on 12/13/2018, (Status Report due by 2/11/2019). (aba) (Entered: 12/13/2018)
12/27/2018	<u>38</u>	STANDING ORDER M10-468: The United States Attorney's Office shall notify the Court immediately upon the restoration of Department of Justice funding. (As further set forth in this Order.) (Signed by Judge Colleen McMahon on 12/27/2018) (jca) (Entered: 01/02/2019)
01/04/2019	<u>39</u>	TRANSCRIPT of Proceedings re: conference held on 11/29/2018 before Judge George B. Daniels. Court Reporter/Transcriber: Jerry Harrison, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/25/2019. Redacted Transcript Deadline set for 2/4/2019. Release of Transcript Restriction set for 4/4/2019.(McGuirk, Kelly) (Entered: 01/04/2019)
01/04/2019	<u>40</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a conference proceeding held on 11/29/18 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 01/04/2019)
01/08/2019	<u>41</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 11/29/2018 before Judge George B. Daniels. Court Reporter/Transcriber: Jerry Harrison, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/29/2019. Redacted Transcript Deadline set for 2/8/2019. Release of Transcript Restriction set for 4/8/2019.(McGuirk, Kelly) (Entered: 01/08/2019)
01/08/2019	<u>42</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 11/29/18 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 01/08/2019)
02/11/2019	<u>43</u>	LETTER addressed to Magistrate Judge Debra C. Freeman from Samuel Dolinger dated 2/11/2019 re: confirmation of tolling of deadlines pursuant to standing order. Document filed by The Animal and Plant Health Inspection Service, The United States Department of Agriculture.(Dolinger, Samuel) (Entered: 02/11/2019)
02/12/2019	<u>44</u>	MEMO ENDORSEMENT on re: <u>43</u> Letter, filed by The Animal and Plant Health Inspection Service, The United States Department of Agriculture. ENDORSEMENT: The deadline for the status report is confirmed. SO ORDERED. (Signed by Magistrate Judge Debra C. Freeman on 2/12/2019) (kv) (Entered: 02/13/2019)
03/07/2019	<u>45</u>	LETTER MOTION for Conference – <i>Request for a Settlement Conference</i> addressed to Magistrate Judge Debra C. Freeman from Erin M. Estevez dated March 7, 2019. Document filed by American Society for the Prevention of Cruelty to Animals.(Estevez, Erin) (Entered: 03/07/2019)
03/11/2019	<u>46</u>	LETTER addressed to Magistrate Judge Debra C. Freeman from Samuel Dolinger dated 3/11/2019 re: Government's response to ASPCA's request for a settlement conference. Document filed by The Animal and Plant Health Inspection Service, The United States Department of Agriculture.(Dolinger, Samuel) (Entered: 03/11/2019)
03/15/2019		Minute Entry for proceedings held before Magistrate Judge Debra C. Freeman: Case Management Conference held via telephone on 3/15/2019. (aba) (Entered: 03/18/2019)
03/20/2019	<u>47</u>	ORDER denying <u>45</u> Letter Motion for Conference. After having held a telephone conference with counsel, it appears that a settlement conference at this juncture would not be likely to be productive. If the parties are unable to resolve the discovery dispute that they referenced, they may submit letter briefs fully addressing that dispute, on a

schedule agreed by the parties. (HEREBY ORDERED by Magistrate Judge Debra Freeman)(Text Only Order) (Freeman, Debra) (Entered: 03/20/2019)